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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/788,444	03/01/2004	Mark W. Casebolt	5486-0229PUS1	9990
67321 7590 06/17/2008 BIRCH, STEWART, KOLASCH & BIRCH, LLP PO Box 747 FALLS CHURCH, VA 22040-0747				
EXAMINER				
NGUYEN, JENNIFER T				
ART UNIT		PAPER NUMBER		
2629				
MAIL DATE		DELIVERY MODE		
06/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/788,444

Applicant(s)

CASEBOLT ET AL.

Examiner

JENNIFER T. NGUYEN

Art Unit

2629

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 February 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 5-11, 17-19, 21-23 and 29-31 is/are rejected.
- 7) ☒ Claim(s) 4, 12-16, 20 and 24-28 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. This Office action is responsive to amendment filed 02/29/08.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-3, 5, 8-11, 17-19, 21-23, and 29-30 are rejected under 35 U.S.C. 102(e) as being anticipated by Oliver et al. (Patent No.: US 6,455,840).

Regarding claims 1, 18, and 30, Oliver teaches a computer input device (i.e., mouse 1, fig.

- 1), comprising:

an electronic imager (i.e., optical navigation 2) positioned to create images of portions of a surface (5) moving relative to the imager;

an illumination source (i.e., LED 3) positioned to illuminate the portions of the surface imaged by the imager; and

at least one controller (i.e., controller 7) coupled to the imager and the illumination source and configured to:

selectively activate the illumination source (3),

receive the images from the imager (2),

determine, based on at least some of the images, an imager velocity relative to the surface,

activate the illumination source (3) at one of at least three activation rates (i.e., a maximal sampling rate, a lower sampling rate, a still lower sampling rate...) when the imager is moving relative to the surface and imager velocity is being determined, and select one of the at least three activation rates based at least in part upon the imager velocity (col. 3, lines 4-22, col. 5, lines 18-48).

Regarding claims 2 and 9, Oliver teaches the computer input device is a battery-powered, optically-tracking computer mouse (col. 2, lines 65-67).

Regarding claim 3, Oliver teaches the controller is further configured to: determine an imager acceleration relative to the surface, and

select the illumination source activation rate based on the imager velocity and the imager acceleration (col. 5, lines 18-48).

Regarding claims 5 and 17, Oliver teaches a memory having at least one user profile parameter stored thereon, and wherein the controller is further configured to vary the illumination source activation rate based on the imager velocity, the imager acceleration and the at least one user profile parameter (col. 5, lines 45-48).

Regarding claim 19, Gordon teaches comprising additional data representing sequences of instructions which, when executed by a processor (162), cause the processor to perform additional steps comprising: determining an imager acceleration relative to the surface; and selecting the illumination source activation rate based on the imager velocity and the imager acceleration (col. 4, lines 45-59, col. 5, lines 14-45, col. 7, lines 5-22).

Regarding claims 8 and 21, Oliver teaches a computer input device, comprising:

an electronic imager (2) positioned to create images of portions of a surface moving relative to the imager;

an illumination source (3) positioned to illuminate the portions of the surface imaged by the imager; and

at least one controller (7) coupled to the imager and the illumination source and configured to:

selectively activate the illumination source (3),

receive the images from the imager (2),

determine, based on a first set of images received from the imager, an imager velocity relative to the surface and relative to one of three predetermined velocity levels (i.e., zero to one inch per second, one to three inches per second, three to nine inches per second, and above), and

estimate an imager displacement relative to the surface based on the imager velocity and an elapsed time since movement from a position corresponding to one or more of the images of the first set (i.e., fixed period) (col. 3, lines 4-22, col. 5, lines 18-48, col. 6, lines 23-26).

Regarding claims 10 and 22, Oliver teaches wherein the controller is further configured to:

determine, based on the first set of images, an imager acceleration relative to the surface,
determine, based on at least one of the imager velocity and the imager acceleration, a
time delta t, and

estimate imager displacement relative to the surface at each of a plurality of times during
delta t, wherein each of said estimates is based on the imager velocity and a different amount of
time elapsed since movement from a position corresponding to one or more of the images of the
first set (col. 3, line 4 to col. 4, line 15).

Regarding claims 11 and 23, Oliver teaches the controller is further configured to:

determine a revised imager velocity and revised imager acceleration based on a second
set of images created subsequent to the expiration of delta t,

determine a revised time period delta t' based on at least one of the revised velocity and
the revised acceleration, and

estimate imager displacement relative to the surface at each of a second plurality of times
during delta t', wherein each of said estimates is based on the revised imager velocity and a
different amount of time elapsed since movement from a position corresponding to one or more
of the images of the second set.

Regarding claim 29, Oliver teaches said selectively activating comprises selectively
activating a light emitting diode (col. 5, lines 5-15).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6, 7, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Oliver et al. (Patent No.: US 6,455,840) in view of Gordon et al. (Patent No.: US 6,995,748).

Regarding claims 6 and 7, Oliver teaches the controller is further configured to vary the illumination source activation rate between a reduced standby rate and one of the at least three rates (col. 5, lines 18-48).

Oliver does not specifically teach a proximity detector and the controller is configured to vary the illumination source activation rate based at least in part on an output of the proximity detector.

Gordon teaches a proximity detector (inherent in optical fingerprint sensing pointing device, col. 8, lines 18-19), and wherein the controller is further configured to vary the illumination source activation rate based at least in part on an output of the proximity detector (col. 7, line 55 to col. 8, line 19). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the proximity detector to save power consumption of the device.

Regarding claim 31, the combination of Oliver and Gordon teaches an illumination source (2), and wherein:

the sensor (148) is a light-sensitive imaging array, and

the received data comprises image data of a tracked surface movable with respect to the array (col. 3, lines 25-48 of Gordon).

6. Claims 4, 12-16, 20, and 24-28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
7. Applicant's arguments with respect to claims 1- 31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JENNIFER T. NGUYEN whose telephone number is 571-272-7696. The examiner can normally be reached on Mon-Fri: 9:00am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard A. Hjerpe can be reached on 571-272-7691. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/J. T. N./

Examiner, Art Unit 2629

06/03/08

/Richard Hjerpe/

Supervisory Patent Examiner, Art Unit 2629